

By: Phelan

H.B. No. 2777

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an application for the amendment of a certificate of  
3 public convenience and necessity in an area within the boundaries  
4 of a political subdivision.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 13.002, Water Code, is amended by adding  
7 Subdivision (13-a) to read as follows:

8 (13-a) "Municipal utility district" means a political  
9 subdivision of this state operating under Chapter 54.

10 SECTION 2. Section 13.244(a), Water Code, is amended to  
11 read as follows:

12 (a) Except as provided by Section 13.258, to [To] obtain a  
13 certificate of public convenience and necessity or an amendment to  
14 a certificate, a public utility or water supply or sewer service  
15 corporation shall submit to the utility commission an application  
16 for a certificate or for an amendment as provided by this section.

17 SECTION 3. Section 13.246, Water Code, is amended by adding  
18 Subsection (j) to read as follows:

19 (j) This section does not apply to an application under  
20 Section 13.258.

21 SECTION 4. Subchapter G, Chapter 13, Water Code, is amended  
22 by adding Section 13.258 to read as follows:

23 Sec. 13.258. UTILITY'S APPLICATION FOR AMENDMENT AND USE OF  
24 MUNICIPAL UTILITY DISTRICT'S CERTIFICATE UNDER CONTRACT. (a)

1 Notwithstanding any other provision of this chapter, a Class A  
2 utility may apply to the commission for an amendment of a municipal  
3 utility district's certificate of convenience and necessity to  
4 allow the utility to have the same rights and powers under the  
5 certificate as the municipal utility district.

6 (b) An application under this section must be accompanied  
7 by:

8 (1) information identifying the applicant;

9 (2) the identifying number of the certificate of  
10 convenience and necessity to be amended;

11 (3) the written consent of the municipal utility  
12 district that holds the certificate of convenience and necessity;

13 (4) a written statement by the municipal utility  
14 district that the application is supported by a contract between  
15 the municipal utility district and the utility for the utility to  
16 provide services inside the certificated area and inside the  
17 boundaries of the municipal utility district; and

18 (5) a description of the proposed service area by:

19 (A) a metes and bounds survey certified by a  
20 licensed state land surveyor or a registered professional land  
21 surveyor;

22 (B) the Texas State Plane Coordinate System;

23 (C) verifiable landmarks, including roads,  
24 creeks, or railroad lines; or

25 (D) if a recorded plat of the area exists, lot and  
26 block number.

27 (c) For an application under this section, the utility

1 commission may not require any information other than the  
2 information required by this section.

3 (d) Not later than the 60th day after the date an applicant  
4 files an application for an amendment under this section, the  
5 utility commission shall review whether the application is  
6 complete. If the utility commission finds that the application is  
7 complete, the utility commission shall:

8 (1) find that the amendment of the certificate is  
9 necessary for the service, accommodation, convenience, or safety of  
10 the public; and

11 (2) grant the application and amend the certificate.

12 (e) The utility commission's decision under this section  
13 becomes final after reconsideration, if any, authorized by utility  
14 commission rule, and may not be appealed.

15 (f) The consent of a municipality is not required for the  
16 utility commission to amend a certificate as provided by Subsection  
17 (a) for an area that is in the municipality's extraterritorial  
18 jurisdiction.

19 (g) Sections 13.241(d) and 13.245 do not apply to an  
20 application under this section.

21 (h) Chapter 2001, Government Code, does not apply to an  
22 application for an amendment of a certificate of public convenience  
23 and necessity under this section.

24 SECTION 5. Section 341.035(d), Health and Safety Code, is  
25 amended to read as follows:

26 (d) A person is not required to file a business plan under  
27 Subsection (a)(1) or (b) if the person:

1           (1) is a county;

2           (2) is a retail public utility as defined by Section  
3 13.002, Water Code, unless that person is a utility as defined by  
4 that section;

5           (3) has executed an agreement with a political  
6 subdivision to transfer the ownership and operation of the water  
7 supply system to the political subdivision; ~~[or]~~

8           (4) is a Class A utility, as defined by Section 13.002,  
9 Water Code, that has applied for or been granted an amendment of a  
10 certificate of convenience and necessity under Section 13.258,  
11 Water Code, for the area in which the construction of the public  
12 drinking water supply system will operate; or

13           (5) is a noncommunity nontransient water system and  
14 the person has demonstrated financial assurance under Chapter 361  
15 or 382 of this code or Chapter 26, Water Code.

16           SECTION 6. The change in law made by this Act applies only  
17 to an application for an amendment of a certificate of public  
18 convenience and necessity filed on or after the effective date of  
19 this Act. An application filed before the effective date of this Act  
20 is governed by the law in effect on the date the application is  
21 filed, and the former law is continued in effect for that purpose.

22           SECTION 7. This Act takes effect September 1, 2017.